

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED

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CLERK-SANTA FE

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM  
Section 1: Mainstream

RANCHITOS DITCH

Subfile Nos. 4.1, 4.4, 4.5

**MOTION FOR APPROVAL OF FORM OF ORDER TO SHOW CAUSE**

COMES NOW the Plaintiff State of New Mexico on the relation of the State Engineer ("State"), and moves the Court for an order approving a form of order to show cause to be served on Defendants Frances A. Martinez and Juan Duran. The form of order is attached hereto as Exhibits A and B and would require these Defendants to show if they disagree with the State's proposed determination of water rights in Subfiles 4.1 4.4 and 4.5 as described herein. The State submits the following as support for this motion.

1. Frances A. Martinez ("Martinez") and Juan Duran ("Duran") were substituted for Defendants Anna Maria Madrid and Gus Martinez by Order Substituting Parties entered March 9, 2005 (Doc. 7779). The original subfile orders in Section 1 entered in connection with Defendants Anna Maria Madrid and Gus Martinez have been vacated (Doc. 7778).

2. The State has reinspected and revised the mapping of the irrigated lands under the Ranchitos Ditch and has served all defendants having lands under this ditch with proposed revised Consent Orders.

8388

3. Defendant Martinez has not responded to the State's proposal for the revision of the mapping of the irrigated lands in connection with Subfiles 4.1 and 4.4.

4. The State proposes to recognize the right of Defendant Martinez to divert and use the public waters from the Rio Chama Stream System, Chama Mainstream, Section 1, as follows:

**FRANCES A. MARTINEZ**

**Subfile No. 4.1**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X= 473.869 feet Y= 1,890,256 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant	<u>9.6</u>	acres
Total	9.6	acres

As shown on the Hydrographic Survey Map for Subfile No. 4.1

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

**Subfile No. 4.4**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X= 473,869 feet Y= 1,890,256 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant 0.4 acres

Total 0.4 acres

As shown on the Hydrographic Survey Map for Subfile No. 4.4

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

5. Defendant Duran has not responded to the State's proposal for the revision of the mapping of the irrigated lands in connection with Subfile 4.5.

6. The State proposes to recognize the right of Defendant Duran to divert and use the public waters from the Rio Chama Stream System, Chama Mainstream, Section 1, as follows:

**JUAN DURAN**

**Subfile No. 4.5**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X= 473,869 feet Y= 1,890,256 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant	<u>0.3</u>	acres
Total	0.3	acres


As shown on the Hydrographic Survey Map for Subfile No. 4.5

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

7. The Court approved a procedure similar to the one proposed here in connection with the redetermination of priority dates for individual irrigation subfiles in Section 1 of the Rio Chama Stream System. *See Order Re Form of Notice and Form of Order to Show Cause Re Priority Dates for Individual Irrigation Subfiles* filed October 3, 1994 (Doc. 3521).

WHEREFORE the State requests the Court to approve and issue the form of notice and orders to show cause attached hereto as Exhibits A and B.

Respectfully submitted,

  
EDWARD G. NEWVILLE  
Special Assistant Attorney General  
Office of State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
(505) 867-7444

### CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were mailed to following persons on September 20, 2006:

Fred J. Waltz, Esq.  
214 B Kit Carson Road  
Taos, NM 87571

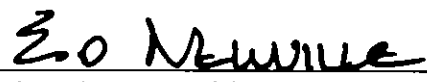
Frances A. Martinez  
P.O. Box 166  
Abiquiu, NM 87501

Juan Duran  
P.O. Box 1  
Abiquiu, NM 87510

transmitted by ACE filing to the following on the same date.

Special Master Vickie L. Gabin  
USDC-DCNM  
P.O. Box 2384  
Santa Fe, NM 87504-2384

Karla McCall, Data Manager  
1315 Sagebrush Dr. SW  
Los Lunas, NM 87031

  
Edward G. Newville

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM  
Section 1: Mainstream

RANCHITOS DITCH

Subfile Nos. 4.1, 4.4

**NOTICE AND ORDER TO SHOW CAUSE**

To: Frances A. Martinez  
P.O. Box 166  
Abiquiu, NM 87501

You are hereby notified that the Court has entered an order requiring you to show if you disagree with the State's proposed determination of your water rights as described herein. If you agree with the proposed determination and description of the elements of your water rights, you do not need to take any action, and the Court will enter a subfile order that recognizes your water rights as follows.

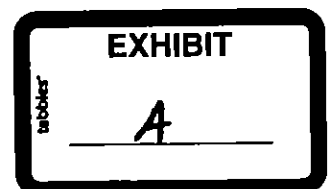
**Subfile No. 4.1**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama



**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X= 473.869 feet Y= 1,890.256 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant 9.6 acres  
Total 9.6 acres

As shown on the attached Hydrographic Survey Map for Subfile No. 4.1

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

**Subfile No. 4.4**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X= 473.869 feet Y= 1,890.256 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant 0.4 acres  
Total 0.4 acres

As shown on the attached Hydrographic Survey Map for Subfile No. 4.4

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

If you disagree with any of the elements of the foregoing description of your water rights, you must follow the instructions below.

IT IS THEREFORE ORDERED THAT if you object to the description of your water rights as described herein you must file a written objection with the Court. You must file your objection, if any, in person or by mail with the Federal District Court Clerk in Santa Fe (P.O. Box 2384, Santa Fe, NM 87504) or Albuquerque (333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102) within 45 days after the date in this notice and order noted below by the signature of Judge Bruce D. Black. If you timely file an objection the Special Master will notify you of how to present your objections in Court.

If you have any questions you may call or write:

Edward G. Newville  
Special Assistant Attorney General  
Office of State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
(505) 867-7444

DATED: \_\_\_\_\_

\_\_\_\_\_  
BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE

Approved:

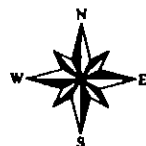
\_\_\_\_\_  
VICKIE L. GABIN  
SPECIAL MASTER





**LEGEND**

- |                          |                    |
|--------------------------|--------------------|
| Irrigated Tract Boundary | Point of Diversion |
| No Right Tract Boundary  | Well               |
| Seeped Area              | Spring             |
| Operable Ditch           | Fallow             |
| Inoperable Ditch         | No Right           |



1 inch = 400 feet

0 200 400 Feet

STATE OF NEW MEXICO  
Office of the State Engineer  
John R. D'Antonio, Jr., P.E.,  
State Engineer

Rio Chama Hydrographic Survey  
Section 1, Chama Mainstream

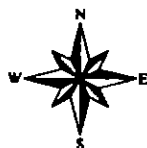
Portion of  
Map Sheet 4  
Tr.1  
Ranchitos Ditch  
AMENDED  
January 10, 2006





**LEGEND**

- |  |                          |  |                    |
|--|--------------------------|--|--------------------|
|  | Irrigated Tract Boundary |  | Point of Diversion |
|  | No Right Tract Boundary  |  | Well               |
|  | Seeped Area              |  | Spring             |
|  | Operable Ditch           |  | Fallow             |
|  | Inoperable Ditch         |  | No Right           |
|  | State Boundary           |  |                    |



1 inch = 300 feet

0 150 300 Feet

**STATE OF NEW MEXICO**  
**Office of the State Engineer**  
**John R. D'Antonio, Jr., P.E.,**  
**State Engineer**

**Rio Chama Hydrographic Survey**  
**Section 1, Chama Mainstream**

**Portion of**  
**Map Sheet 4**  
**Tr.4**  
**Ranchitos Ditch**  
**AMENDED**  
**January 10, 2006**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM  
Section 1: Mainstream

RANCHITOS DITCH

Subfile No. 4.5

**NOTICE AND ORDER TO SHOW CAUSE**

To: Juan Duran  
P.O. Box 1  
Abiquiu, NM 87510

You are hereby notified that the Court has entered an order requiring you to show if you disagree with the State's proposed determination of your water rights as described herein. If you agree with the proposed determination and description of the elements of your water rights, you do not need to take any action, and the Court will enter a subfile order that recognizes your water rights as follows.

**Subfile No. 4.5**

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s)** NONE

**Priority:** 1735

**Source of Water:** La Cienega de Don Simon, a tributary of the Rio Chama

EXHIBIT

B

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch: RANCHITOS DITCH

**Location:** X- 473,869 feet Y- 1,890.256 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Town of Abiquiu Grant 0.3 acres  
Total 0.3 acres

As shown on the attached Hydrographic Survey Map for Subfile No. 4.5

**Amount of Water:** Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

If you disagree with any of the elements of the foregoing description of your water rights, you must follow the instructions below.

IT IS THEREFORE ORDERED THAT if you object to the description of your water rights as described herein you must file a written objection with the Court. You must file your objection, if any, in person or by mail with the Federal District Court Clerk in Santa Fe (P.O. Box 2384, Santa Fe, NM 87504) or Albuquerque (333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102) within 45 days after the date in this notice and order noted below by the signature of Judge Bruce D. Black. If you timely file an objection the Special Master will notify you of how to present your objections in Court.

If you have any questions you may call or write:

Edward G. Newville  
Special Assistant Attorney General  
Office of State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
(505) 867-7444

DATED: \_\_\_\_\_

\_\_\_\_\_  
BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE

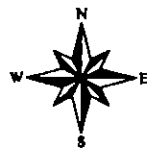
Approved:

\_\_\_\_\_  
VICKIE L. GABIN  
SPECIAL MASTER



**LEGEND**

- |                          |                    |
|--------------------------|--------------------|
| Irrigated Tract Boundary | Point of Diversion |
| No Right Tract Boundary  | Well               |
| Seeped Area              | Spring             |
| Operable Ditch           | Fallow             |
| Inoperable Ditch         | No Right           |
| Stock Ponds / Reservoir  |                    |



1 inch = 300 feet

0 150 300 Feet

**STATE OF NEW MEXICO**  
**Office of the State Engineer**  
**John R. D'Antonio, Jr., P.E.,**  
**State Engineer**

**Rio Chama Hydrographic Survey**  
**Section 1, Chama Mainstream**

Portion of  
 Map Sheet 4  
 Tr.5  
 Ranchitos Ditch  
 AMENDED  
 January 10, 2006

